

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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YIN LI,

Plaintiff,

-against-

CITY OF NEW YORK; Police Officer STANLEY REED, Shield No. 10365; Police Officer Keicho Phillips, Shield No. 31620; Lieutenant PETER SOTIRIOU; and JOHN and JANE DOE 1 through 10, individually and in their official capacities (the names John and Jane Doe being fictitious, as the true names are presently unknown),

Defendants.

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**FIRST AMENDED
COMPLAINT**

14 CV 3381 (RRM)(VVP)

Jury Trial Demanded

NATURE OF THE ACTION

1. This is an action to recover money damages arising out of the violation of plaintiff's rights under the Constitution.

JURISDICTION AND VENUE

2. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourth and Fourteenth Amendments to the Constitution of the United States.

3. The jurisdiction of this Court is predicated upon 28 U.S.C. §§ 1331, 1343 and 1367(a).

4. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 (b) and (c).

5. This Court has supplemental jurisdiction over the New York State claims pursuant to 28 U.S.C. § 1367.

JURY DEMAND

6. Plaintiff demands a trial by jury in this action.

PARTIES

7. Plaintiff Yin Li (“plaintiff” or “Ms. Li”) is a resident of New York County in the City and State of New York.

8. Defendant City of New York is a municipal corporation organized under the laws of the State of New York. It operates the NYPD, a department or agency of defendant City of New York responsible for the appointment, training, supervision, promotion and discipline of police officers and supervisory police officers, including the individually named defendants herein.

9. Defendant Police Officer Stanley Reed, Shield No. 4020 (“Reed”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Reed is sued in his individual and official capacities.

10. Defendant Police Officer Keicho Phillips, Shield No. 31620 (“Phillips”), at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant Phillips is sued in his individual and official capacities.

11. Defendant Lieutenant Peter Sotiriou (“Sotiriou”) at all times relevant herein, was an officer, employee and agent of the NYPD. Defendant “John” Sotiriou is sued in his individual and official capacities.

12. At all times relevant defendants John and Jane Doe 1 through 10 were police officers, detectives or supervisors employed by the NYPD. Plaintiff does not know the real names and shield numbers of defendants John and Jane Doe 1 through 10.

13. At all times relevant herein, defendants John and Jane Doe 1 through 10 were acting as agents, servants and employees of the City of New York and the NYPD. Defendants John and Jane Doe 1 through 10 are sued in their individual and official capacities.

14. At all times relevant herein, all individual defendants were acting under color of state law.

STATEMENT OF FACTS

15. At approximately midnight on December 13, 2013, Ms. Li was assaulted and battered by defendant police officers in the vicinity of Bergen Street between Franklin and Classon Avenues in Brooklyn, New York.

16. Without any provocation and for no lawful reason, defendant officers brutalized Ms. Li, including punching her squarely in her mouth with a closed fist.

17. While in extreme pain and shock, defendants pushed Ms. Li down onto their police vehicle and handcuffed her.

18. Ms. Li was taken to a police precinct.

19. Ms. Li was eventually taken to Brooklyn Central Booking.

20. Having been in pain for hours and in obvious need of medical treatment, Ms. Li requested the same while at Central Booking.

21. Ms. Li was taken to Long Island College Hospital where she was treated for her injuries, which included a chipped front tooth and bruising and swelling to her face and mouth.

22. Ms. Li was taken back to Brooklyn Central Booking where, after hours in a cold cell, she again was in significant pain in her mouth and face.

23. Ms. Li requested medical treatment but defendants refused her request.

24. Since her release and as a result of the injuries she sustained, plaintiff underwent root canal surgery on her two front teeth as well as the placement of prosthetic material to replace her teeth.

25. To date, Ms. Li's injuries require ongoing medical treatment.

26. Within ninety days after the claim alleged in this Complaint arose, a written notice of claim was served upon defendants at the Comptroller's Office.

27. At least thirty days have elapsed since the service of the notice of claim, and adjustment or payment of the claim has been neglected or refused.

28. This action has been commenced within one year and ninety days after the happening of the events upon which the claims are based.

29. Ms. Li suffered damage as a result of defendants' actions. Plaintiff was suffered emotional distress, mental anguish, fear, pain, bodily injury, anxiety, embarrassment, humiliation, and damage to her reputation.

FIRST CLAIM
Unreasonable Force

30. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

31. The defendants violated the Fourth and Fourteenth Amendments because they used unreasonable force on plaintiff.

32. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SECOND CLAIM
State Law Assault and Battery

33. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

34. By their conduct, as described herein, the defendants are liable to plaintiff for having assaulted and battered her.

35. Defendant City of New York, as an employer of the individual defendant officers, is responsible for their wrongdoing under the doctrine of *respondeat superior*.

36. As a direct and proximate result of the misconduct and abuse of authority stated above, plaintiff sustained the damages alleged herein.

THIRD CLAIM
Negligent Hiring, Training and Retention

37. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

38. Defendant City, through the NYPD, owed a duty of care to plaintiff to prevent the conduct alleged, because under the same or similar circumstances a reasonable, prudent, and careful person should have anticipated that injury to plaintiff or to those in a like situation would probably result from the foregoing conduct.

39. Upon information and belief, all of the individual defendants were unfit and incompetent for their positions.

40. Upon information and belief, defendant City knew or should have known through the exercise of reasonable diligence that the individual defendants were potentially dangerous.

41. Upon information and belief, defendant City's negligence in screening, hiring, training, disciplining, and retaining these defendants proximately caused each of plaintiff's injuries.

42. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

FOURTH CLAIM
Intentional Infliction of Emotional Distress

43. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

44. By reason of the foregoing, and by assaulting, battering, and using gratuitous, excessive, brutal, sadistic, and unconscionable force, failing to prevent other defendants from doing so, or causing an unlawful seizure and extended detention without due process, the defendants, acting in their capacities as NYPD officers, and within the scope of their employment, each committed conduct so extreme and outrageous as to constitute the intentional infliction of emotional distress upon plaintiff.

45. The intentional infliction of emotional distress by these defendants was unnecessary and unwarranted in the performance of their duties as NYPD officers.

46. Defendants, their officers, agents, servants, and employees were responsible for the intentional infliction of emotional distress upon plaintiff. Defendant City, as employer of each of the defendants, is responsible for their wrongdoings under the doctrine of *respondeat superior*.

47. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

FIFTH CLAIM
Negligent Infliction of Emotional Distress

48. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

49. By reason of the foregoing, and by assaulting, battering, and using gratuitous, excessive, brutal, sadistic, and unconscionable force, failing to prevent other defendants from doing so, or causing an unlawful seizure and extended detention without due process, the defendants, acting in their capacities as NYPD officers, and within the scope of their employment, each were negligent in committing conduct that inflicted emotional distress upon plaintiff.

50. The negligent infliction of emotional distress by these defendants was unnecessary and unwarranted in the performance of their duties as NYPD officers.

51. Defendants, their officers, agents, servants, and employees were responsible for the negligent infliction of emotional distress upon plaintiff. Defendant City, as employer of each of the defendants, is responsible for their wrongdoings under the doctrine of *respondeat superior*.

52. As a direct and proximate result of the misconduct and abuse of authority detailed above, plaintiff sustained the damages hereinbefore alleged.

SIXTH CLAIM
Deliberate Indifference to Medical Needs

53. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

54. The individual defendants were aware of a risk to plaintiff's safety and a need for medical care and failed to act in deliberate indifference to plaintiff's needs.

55. Accordingly, defendants violated the Fourteenth Amendment because they acted with deliberate indifference to plaintiff's medical needs and safety.

56. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

SEVENTH CLAIM
Failure To Intervene

57. Plaintiff repeats and realleges each and every allegation as if fully set forth herein.

58. Those defendants that were present but did not actively participate in the aforementioned unlawful conduct observed such conduct, had an opportunity prevent such conduct, had a duty to intervene and prevent such conduct and failed to intervene.

59. Accordingly, the defendants who failed to intervene violated the Fourth and Fourteenth Amendments.

60. As a direct and proximate result of this unlawful conduct, plaintiff sustained the damages hereinbefore alleged.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully requests judgment against defendants as follows:

- (a) Compensatory damages against all defendants, jointly and severally;
- (b) Punitive damages against the individual defendants, jointly and severally;
- (c) Reasonable attorneys' fees and costs pursuant to 28 U.S.C. § 1988; and
- (d) Such other and further relief as this Court deems just and proper.

Dated: September 19, 2014
New York, New York

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